



NASA Procedural Requirements

COMPLIANCE IS MANDATORY

NPR 3792.1B
Effective Date: July 29, 2006
Expiration Date: July 29,
2011

[Printable Format \(PDF\)](#)

Request Notification of Change (NASA Only)

Subject: Plan for a Drug-Free Workplace (REVALIDATED w/Change 1 12/06/06)

Responsible Office: Office of Human Capital Management

[| TOC](#) | [ChangeHistory](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) |
[Chapter6](#) | [Chapter7](#) | [AppendixA](#) | [AppendixB](#) | [AppendixC](#) | [ALL](#) |

Chapter 4. Testing for Illegal Drugs

4.1 Technical Guidelines for Drug Testing

4.1.1 NASA shall adhere to all scientific and technical guidelines for Federal drug testing programs promulgated by the Department of Health and Human Services (HHS) which are consistent with the authority granted by EO 12564 and to the requirements of Section 503 of the Act. To the extent that any of the procedures specified in this NPR are inconsistent with any of those specified in the HHS Mandatory Guidelines for Federal Drug Testing Programs or any subsequent revisions, such HHS Mandatory Guidelines or revisions shall supersede the procedures specified in this NPR, but only to the extent of the inconsistency.

4.1.2 NASA's Drug-Free Workplace Program shall utilize trained collection personnel and only laboratories approved and certified by HHS and shall adhere to strict confidentiality requirements.

4.1.3 NASA shall use a split specimen method of collection.

4.1.4 All tested employees shall receive written notification of their test results.

4.1.5 An MRO must review all confirmed nonnegative test results (i.e., positive, adulterated, substituted, or invalid) and all negative and dilute test results returned by the HHS-certified laboratory. When a specimen result is reported by the laboratory as nonnegative (i.e., positive, adulterated, substituted, or invalid), the MRO must contact the employee or applicant and provide the opportunity to justify the test result. If the employee or applicant chooses to offer an explanation for the nonnegative test result, he/she may present to the MRO any information and/or declare any condition he/she believes might have affected the test result (e.g., prescribed medication). The MRO must consider all information provided. Employees and applicants are not entitled to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner deemed most efficient or necessary.

4.1.5.1 If the MRO determines that the employee's or applicant's justification for the nonnegative test result is acceptable, the result shall be verified as negative and so reported to the DPC; the testing procedure is concluded at this point.

4.1.5.2 If the MRO determines that the employee's or applicant's justification for the nonnegative test result is not sufficient, the result shall be considered a verified test result and forwarded to the DPC for further action.

4.1.5.3 If the test result is positive, substituted, or adulterated, the MRO shall inform the employee that he/she may request a retest of the specimen. The retest shall be conducted using the split (i.e., a portion of the original specimen) of the specimen and at the same NASA-contracted laboratory, at NASA expense, unless the employee requests that the retest be conducted at another HHS-certified laboratory. In such instances, the contracted laboratory used by NASA shall send the split of the specimen to the laboratory designated by the employee; and the cost of the retest shall be paid by the employee.

4.1.6 An employee cannot request a retest of a specimen reported as invalid.

4.1.7 An applicant shall not be afforded an opportunity for a retest of a nonnegative (i.e., positive, substituted, or adulterated) test result.

4.1.8 If an employee's test result shows evidence of illegal drug use and that employee occupies a TDP, NASA management shall immediately take the employee out of that position and determine the appropriate course of action in accordance with Chapter 5.

4.2 Privacy Provision

4.2.1 Any individual, subject to testing under this Plan, shall be permitted to provide urine specimens in private, in a rest room stall or similar enclosure, so that the employee is not observed while providing the sample with the following exceptions:

4.2.1.1 At the scene of an accident when a rest room stall or similar enclosure or alternative collection site that can be secured is not available.

4.2.1.2 In those cases where the collector or MRO, with the approval of the DPC and Center's Human Resources Office, has reason to believe the individual may attempt to alter or substitute the specimen to be provided. Such belief must be supported by one of the following:

- a. The individual's behavior suggests that he/she is under the influence of drugs at the time of testing.
- b. At the time of testing, the individual is found to possess the means of tampering with or altering urine samples.
- c. The individual has previously tampered with a sample.
- d. The specimen:

(1) Has a temperature outside the range of 32.5-37.7 degrees C/90.5-99.8 degrees F; or

(2) Shows signs of contaminants.

4.2.1.3 In those cases when the MRO directs the Agency to do so:

- a. Because the individual's previous test result was invalid.
- b. The next time the individual is randomly selected for testing because the previous test result was negative and dilute.
- c. When a negative result is a requirement based on the reason for testing (i.e., pre-employment, follow-up, reasonable suspicion, or post-accident) because the previous test result was negative and dilute.

4.2.2 When observation is required and there is no trained collector of the same gender available, the Agency shall select an observer of the same gender.

4.3 General Notice to Employees

Prior to the implementation of the Plan and in accordance with EO 12564 Section 4(a), a general notice announcing the NASA Drug-Free Workplace Program was provided to all employees on January 26, 1989, that addressed the purpose of the Program, the use of education, training, and EAP assistance, and the circumstances under which testing may occur.

4.4 Types of Testing

4.4.1 Pre-employment Testing

4.4.1.1 To maintain the high professional standards of the NASA workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are placed on the employment rolls of the Agency. Doing so will have a positive effect on reducing instances of illegal drug use by employees working for NASA and will provide for a safe, healthy, productive, and secure working environment. Therefore, there is no exemption from pre-employment testing for any applicant tentatively selected for a TDP.

4.4.1.2 Any vacancy announcement for a TDP shall include an appropriate statement regarding pre-employment testing, e.g., "Any applicant tentatively selected for this position will be required to submit to screening for illegal drug use prior to appointment and will be subject to random drug testing while occupying the position." Failure of the vacancy announcement to contain this statement notice will not preclude pre-employment testing if advance written notice is provided to an applicant in some other manner.

4.4.1.3 Procedures for Pre-employment Testing

- a. Upon notification by the hiring Center's Human Resources Office that an applicant has been tentatively selected

for a TDP, the DPC shall notify the individual to report to an appropriate collection site. The drug test must be undertaken as soon after notification as possible but no later than 48 hours after notice to the applicant.

b. The applicant shall be advised of the opportunity to submit medical documentation that may support a legitimate use for a specific drug and that such information will be reviewed only by the MRO to determine whether the individual is licitly using an otherwise illegal drug.

c. The applicant shall bear the costs of travel to/from the collection site; specimen collection and analysis costs shall be borne by NASA.

d. When an applicant must submit to a physical examination as a condition of employment, drug testing shall be performed as part of the physical examination procedures.

e. The hiring Center's MRO shall review and report the test results.

4.4.1.6 Consequences for Refusal to Take a Drug Test or Receiving a Nonnegative Test Result

a. If an outside applicant refuses to take a drug test, he/she will not be hired by NASA. Failure to appear for testing without justification acceptable to NASA management will be considered refusal to participate in testing.

b. NASA will decline a final offer of employment to any outside applicant with a verified nonnegative test result, and such applicant may not reapply to NASA for a period of six months from the date of the nonnegative test result. The hiring Center's Human Resources Office shall object to the applicant for medical or suitability reasons and shall inform the applicant that a confirmed presence of an illegal drug in the applicant's urine precludes NASA from hiring him/her.

c. Should a current NASA employee, tentatively selected for a TDP, refuse to take a drug test or have a verified nonnegative test result, the employee shall be subject to the full range of disciplinary actions, including removal, and shall not be selected for the TDP.

4.4.2 Random Testing

4.4.2.1 Employees occupying positions that have been determined to be TDPs, in accordance with Appendix A of this NPR, shall be subject to random testing.

4.4.2.2 Pursuant to 42 U.S.C. §290dd(b)(2)(E), all positions that have been or will be designated as TDPs under this NPR are sensitive positions and are, therefore, exempt from coverage under 42 U.S.C. §290dd(b)(1), which provides that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the basis of prior drug abuse.

4.4.2.3 The frequency and percentage of the TDP pool to be subject to random testing shall be determined according to management's needs (i.e., generally, testing shall be conducted at least four times a year, and 25 percent of the total TDP pool shall be tested each year).

4.4.2.4 Individual Notice to Employee in a TDP a. An individual notice must be distributed to each employee in a TDP explaining the following:

(1) That the employee's position has been designated a TDP.

(2) That the employee has the opportunity to identify himself/herself voluntarily as a user of an illegal drug and to receive counseling or rehabilitation.

(3) That NASA's policy, as stated in Chapter 5, paragraph 5.4, is that disciplinary action for illegal drug use shall not be taken against an employee who has been found to use an illegal drug, if the employee accomplishes the following:

(i) Voluntarily identifies himself/herself as a user of an illegal drug prior to receiving notification of a scheduled test.

(ii) Successfully completes counseling and rehabilitation.

(iii) Refrains from using illegal drugs after successful completion of counseling and rehabilitation.

b. The employee shall be subject to random testing no sooner than 30 days after the date of this notice.

c. Each employee in a TDP shall be asked to acknowledge, in writing, that the employee has received and read the notice that states that the employee's position has been designated for random drug testing and that refusal to submit to testing shall result in initiation of disciplinary action, up to and including removal.

d. If the employee refuses to sign the acknowledgment, the employee's supervisor shall note on the acknowledgment form that the employee received the notice. This acknowledgment shall be collected and maintained by each Center's Human Resources Office.

e. An employee's failure to sign the notice shall not preclude testing.

4.4.2.5 Notification of Selection. An individual selected for random testing, as well as the first-level supervisor, shall be notified, preferably, on the same day that the test is scheduled and within two hours or less of the scheduled testing. The supervisor shall explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly.

4.4.2.6 Deferral of Random Testing

a. An employee's test may be deferred by the first-line supervisor or designated approval authority for purposes of leave, travel, work schedule, etc. on the following grounds:

- (1) The employee is in an approved leave status (administrative, annual, sick, or leave-without-pay status).
- (2) The employee is in official travel status.
- (3) The employee is in an approved telecommuting status.
- (4) The employee is in training that is off-Center.

b. An employee's test may be deferred based on the agreement of both the first- and second-level supervisors that there is a compelling need for the employee to perform a task or function that is time critical and for which no other employee can be substituted.

c. An employee whose test is deferred shall be subject to an unannounced test within 60 days following the deferral.

4.4.2.7 Administrative Relief. If an employee disagrees that his/her position is a TDP, he/she may file an administrative appeal to the appropriate Center Director (or designee). The appeal must be submitted by the employee, in writing, within 15 days of the date that the employee is notified that his/her position is a TDP. The appeal must set forth all relevant information. The decision by the Center Director (or designee) is final. There is no further administrative appeal.

4.4.2.8 Employee Counseling and Assistance

a. While participating in a counseling or rehabilitative program, the employee may be exempted from the random TDP pool for a period not to exceed 60 days or for a time period specified in an abeyance contract or rehabilitative plan approved by NASA management.

b. Upon successful completion of the counseling or rehabilitative program, the employee shall immediately be returned to the TDP pool and shall be subject to follow-up testing pursuant to paragraph 4.4.6.

4.4.3 Reasonable-Suspicion Testing

4.4.3.1 Reasonable-suspicion testing may be required of any employee in a position that is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable-suspicion testing may also be required of any employee in any position when there is reasonable suspicion of on-duty drug use or on-duty drug impairment.

4.4.3.2 Reasonable-suspicion testing does not require certainty; however, undocumented hunches are not sufficient to warrant such testing. Among other things, reasonable-suspicion testing may be based upon any of the following:

- a. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug.
- b. Arrest or conviction in the last year for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal-drug possession, use, or trafficking (e.g., distribution of a controlled substance).
- c. Information provided either by reliable and credible sources or by independent corroboration.
- d. Newly discovered evidence that the employee has tampered with a previous test result.

4.4.3.3 Procedures for Conducting Reasonable-Suspicion Testing

a. If an employee is suspected of using illegal drugs, the supervisor shall document, in writing, the information, facts, and circumstances that form the basis to recommend reasonable-suspicion testing. The written report shall include, at a minimum, the appropriate dates and times of the drug-related incident, reliable (credible) sources of information, and the rationale leading to the recommendation for the test. If reasonable-suspicion testing is conducted, the documentation shall be appended to include the findings of the test and the action taken. Concurrence by a higher-level supervisor and the Office of General Counsel is required, in advance, for all reasonable-suspicion tests.

b. Upon the Office of General Counsel's determination of reasonable-suspicion, the supervisor shall inform the Center's Human Resources Office and contact the DPC, who will normally schedule the test within two hours of being notified.

c. Any employee with a verified nonnegative (i.e., positive, substituted, or adulterated) test result shall be subject to the same conditions and procedures as an employee found to use illegal drugs through any other means.

4.4.4. Post-Accident or Unsafe Practice Testing

4.4.4.1 NASA is committed to providing a safe and secure working environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, an employee may be subject to testing when, based upon the circumstances of the accident, his/her actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

- a. The accident results in a death or personal injury requiring immediate hospitalization.
- b. The accident results in damage to Government or private property estimated to exceed of \$10,000.

4.4.4.2 If an employee is suspected of having caused or contributed to an accident meeting either of the above criteria, the appropriate supervisor shall present the facts leading to this suspicion to the Center Director (or designee) for approval. Once approval has been obtained, the Center's Human Resources Office has been informed, and arrangements have been made with the DPC for testing, the supervisor shall prepare a written report detailing the facts and circumstances that warranted the testing. A test should be scheduled as expeditiously as possible.

4.4.4.3 Post-accident or unsafe practice testing shall be conducted independently of any mishap investigation.

4.4.5 Voluntary Testing

4.4.5.1 Employees not in TDPs may volunteer for unannounced random testing by notifying the Center's Human Resources Office. These employees shall then be included in the pool of TDPs subject to random testing and shall be subject to the same conditions and procedures for the finding of illegal drug use as those employees in TDPs.

4.4.5.2 Volunteers shall remain in the TDP pool for the duration of the position that the employee holds or until the employee withdraws from participation by notifying the Center's Human Resources Office of such intent at least 48 hours prior to a scheduled test.

4.4.6 Follow-up Testing

4.4.6.1 An employee who has been referred through administrative channels and who successfully completes counseling and rehabilitation for illegal drug use shall be subject to unannounced drug testing for a period of one year, at an increased frequency of no less than four times a year, or as agreed to in a last chance agreement.

4.4.6.2 Follow-up testing is distinct from testing that may be imposed as a component of the EAP.

| [TOC](#) | [ChangeHistory](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) |
[Chapter5](#) | [Chapter6](#) | [Chapter7](#) | [AppendixA](#) | [AppendixB](#) | [AppendixC](#) | [ALL](#) |

| [NODIS Library](#) | [Human Resources and Personnel\(3000s\)](#) | [Search](#) |

DISTRIBUTION: **NODIS**

This Document Is Uncontrolled When Printed.

Check the NASA Online Directives Information System (NODIS) Library
to Verify that this is the correct version before use: <http://nodis3.gsfc.nasa.gov>
